

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** FDOT - District 5  
Attn: Patrick Muench  
715 South Woodland Blvd.  
DeLand, Florida 32720

**Permit No:** SAJ-2003-6435 (IP-AWP)

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** Impacts to 0.19 acres of waters of the United States (wetlands) and 3.1 acres of jurisdictional surface waters for the re-alignment of NASA Boulevard at the intersection of Ellis Road and Wickham Road extending through the southwest corner of the Melbourne Regional Airport property. The work described above is to be completed in accordance with the 4 attachment affixed at the end of this permit instrument.

**Project Location:** The project is located near the intersection of Wickham Road and NASA Blvd., in Sections 25, 26, 30, and 31, Township 27 South, Range 36 and 37 East, Brevard County, Florida. The project as proposed will impact wetlands and surface waters which are hydrologically connected to the L-7 canal and eventually to Crane Creek.

**Directions to site:** From the intersection of US 192 and Wickham Road proceed north on Wickham Road to the intersection of Wickham Road and NASA Blvd. The project site is located just north of this intersection.

**Latitude & Longitude:** Latitude 28.0993 North  
Longitude 80.6686 West

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PERMITTEE: FDOT-District 5  
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### **Permit Conditions**

#### **General Conditions:**

1. The time limit for completing the work authorized ends on **February 19, 2014**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to

PERMIT NUMBER: SAJ-2003-6435(IPA-AWP)  
PERMITTEE: FDOT-District 5  
PAGE 3 of 10

ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

1. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, PO Box 4970, Jacksonville, Florida 32232-0019. The Permittee shall reference this permit number, SAJ-2003-6435(IP-AWP), on all submittals.
2. **Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.
3. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.
4. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 3) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:
  - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show

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PERMITTEE: FDOT-District 5  
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all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

5. **Eastern Indigo Snake Protection Measures:** The Permittee shall comply with U.S. Fish and Wildlife Service's "Standard Protection Measures for the Eastern Indigo Snake" dated February 12, 2004 and provided in Attachment 4 of this permit."

6. **Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

7. **Regulatory Agency Changes:** Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Cocoa Regulatory Office.

8. **Compensatory Mitigation:** In accordance with the Memorandum of Understanding between the St. Johns River Water Management District (SJRWMD) and the United States Army Corps of Engineers, Jacksonville District signed October 16, 2007 and October 9,

PERMIT NUMBER: SAJ-2003-6435(IPA-AWP)  
PERMITTEE: FDOT-District 5  
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2007 respectively, the SJRWMD shall submit an annual status report and five year update of the mitigation described above. The report shall ensure 1.65 functional units have been replaced by the proposed mitigation. Mitigation has been identified in the 2008 SJRWMD Senate Bill Mitigation Plan # 4046671 defined in Mitigation Project Group SJ 51.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

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PERMITTEE: FDOT-District 5  
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b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any

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PERMITTEE: FDOT-District 5  
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corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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PERMITTEE: FDOT-District 5  
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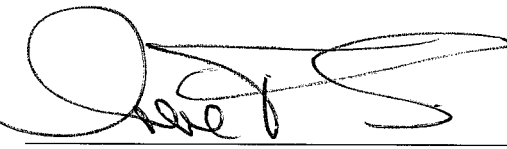
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
(PERMITTEE)

2/19/09  
(DATE)

Patrick M. Muench  
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
(DISTRICT ENGINEER)  
for Paul L. Grosskruger  
Colonel, U.S. Army  
District Commander

2/20/09  
(DATE)



PERMIT NUMBER: SAJ-2003-6435(IPA-AWP)  
PERMITTEE: FDOT-District 5  
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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFeree-SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(NAME-PRINTED)

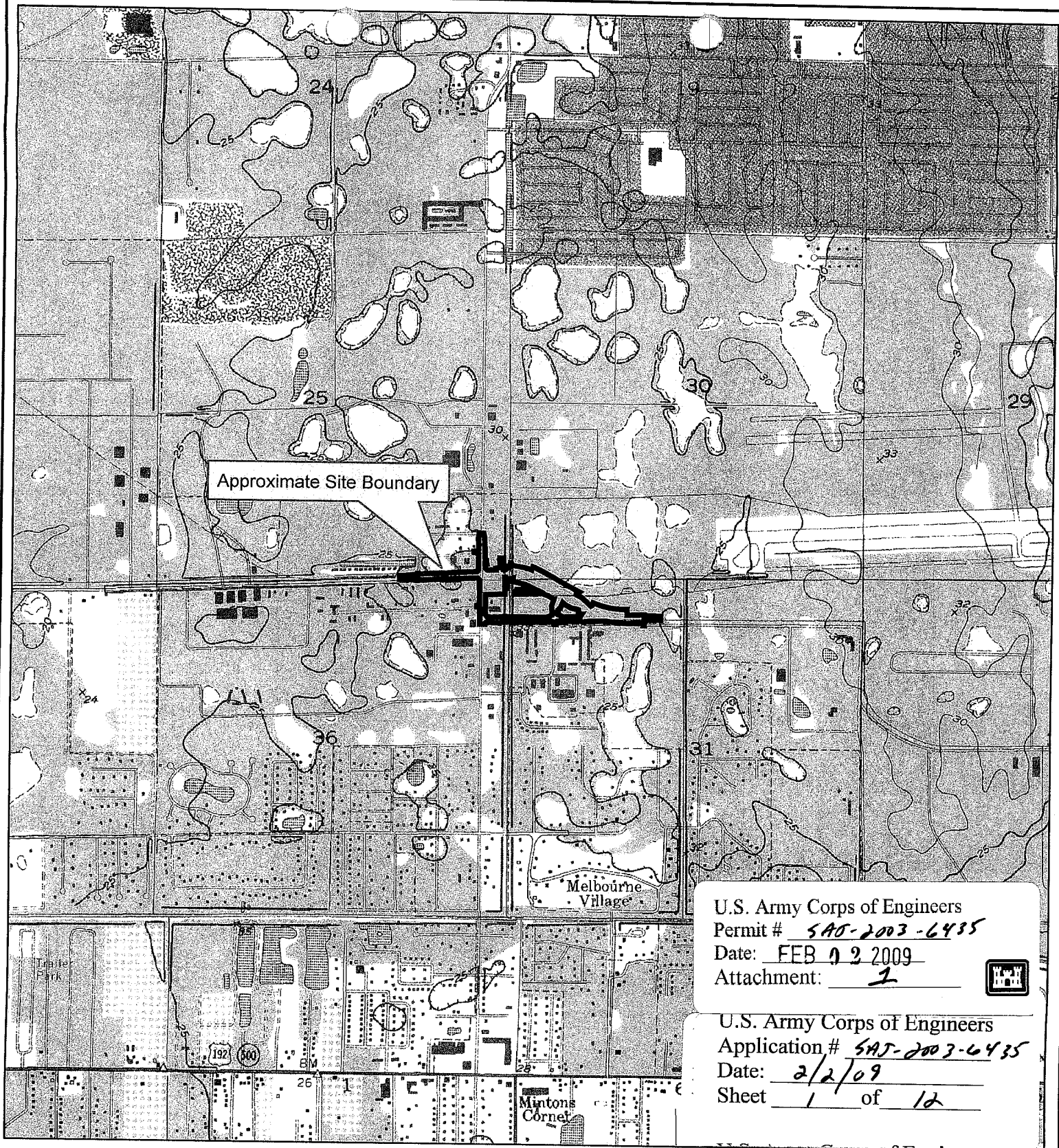
\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY, STATE, AND ZIP CODE)

PERMIT NUMBER: SAJ-2003-6435(IPA-AWP)  
PERMITTEE: FDOT-District 5  
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***Attachments to Department of the Army  
Permit Number SAJ-2003-6435(IP-AWP)***

1. PERMIT DRAWINGS: *12* pages
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. 5 pages
3. AS-BUILT CERTIFICATION: 1 page
4. STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE: 1 page



U.S. Army Corps of Engineers  
 Permit # SAS-2003-6435  
 Date: FEB 12 2009  
 Attachment: 1



U.S. Army Corps of Engineers  
 Application # SAS-2003-6435  
 Date: 2/2/09  
 Sheet 1 of 12

Section: 30, 31 25, 36  
 Township: 27 S 27 S  
 Range: 37 E 36 E

Lat: 28° 5' 55.89" N  
 Long: 80° 40' 15.26" W

0 2,000'



**Environmental  
 Resource  
 Solutions Inc.**  
 1597 The Greens Way,  
 Suite 200  
 Jacksonville Beach, FL 32260

## NASA Blvd. Realignment Location Map

Source: USGS 7.5' Melbourne West, FL  
 Topographic Quadrangle

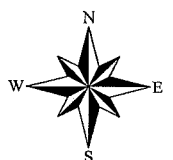
By: KC

Project No.: 08117

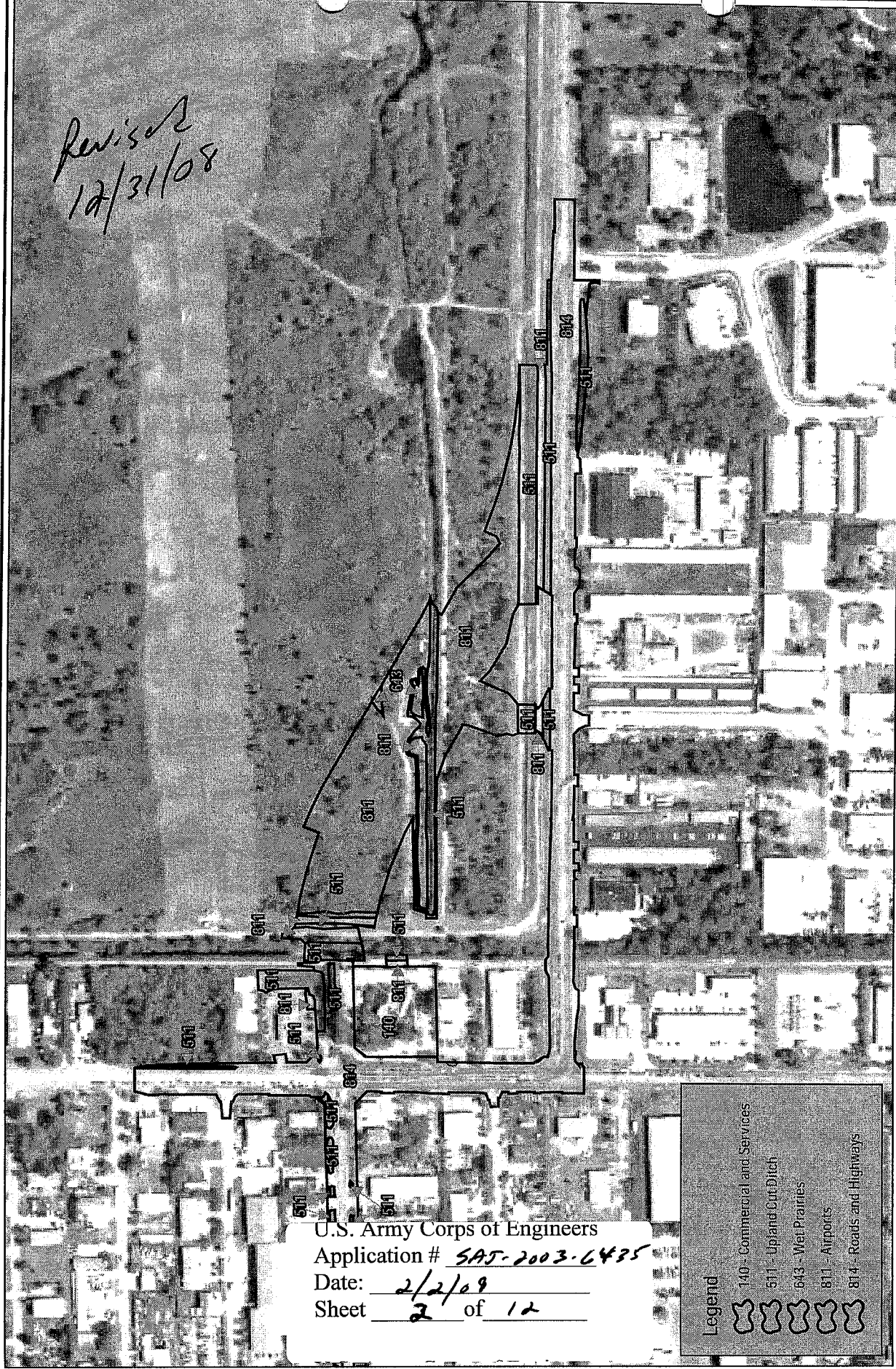
Exhibit No.: 1

Date: 10-17-08

Rev. Date:



Revised  
12/31/08



U.S. Army Corps of Engineers  
 Application # SAS-2003-6435  
 Date: 2/2/09  
 Sheet 2 of 12

**Legend**

- 140 - Commercial and Services
- 511 - Upland Cut Ditch
- 643 - Wet Prairies
- 811 - Airports
- 814 - Roads and Highways



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 1687 The Greens Way,  
 Suite 200  
 Jacksonville Beach, FL 32250

## NASA Blvd. Realignment FLUCFCS Map

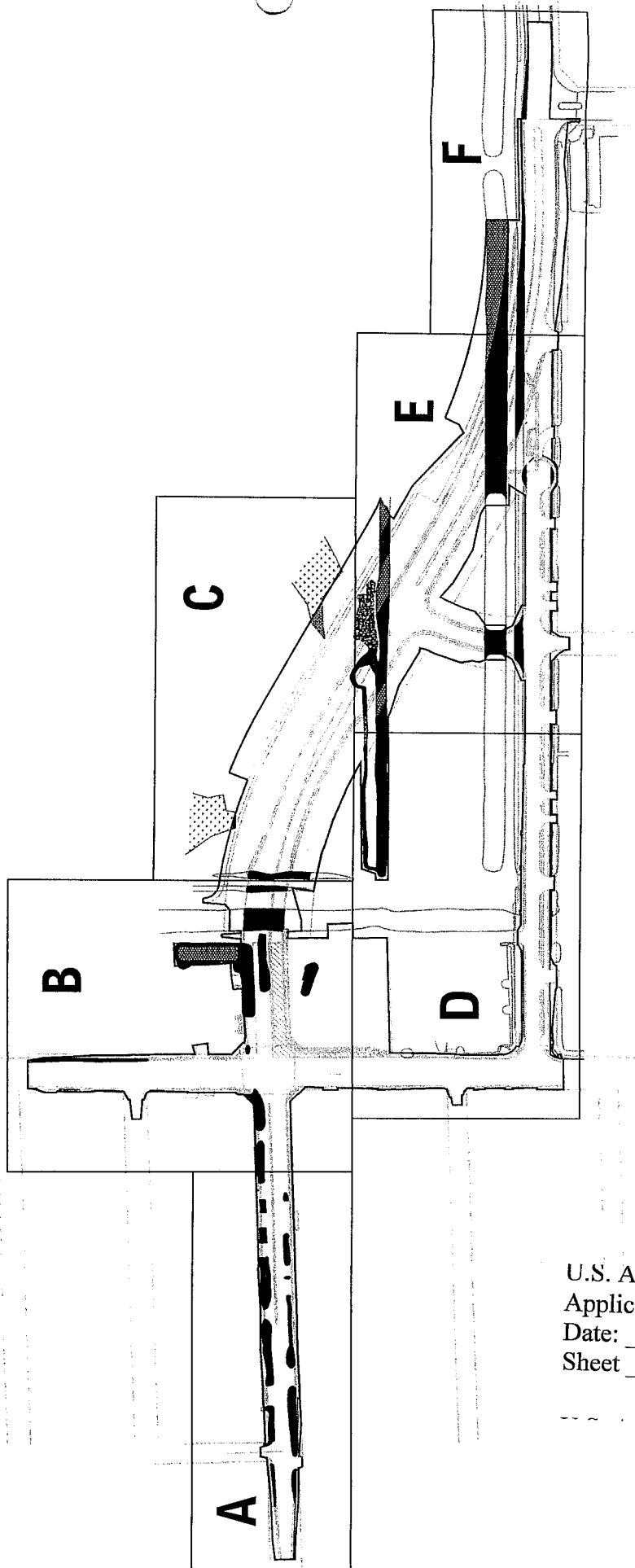


Project No.:	08117
Exhibit No.:	3
Date:	10-17-08
Rev. Date:	

By: KC  
 Source: SJRWMD (2004), Jacobs







Scale: 1"=100'

Project No.: 08117	Date: 1-16-03	Rev: 10-21-08
By: KC	Exhibit No: 4	

Source: dsgnrd01.dwg	File: 08117_COE_Impact_10-21-08
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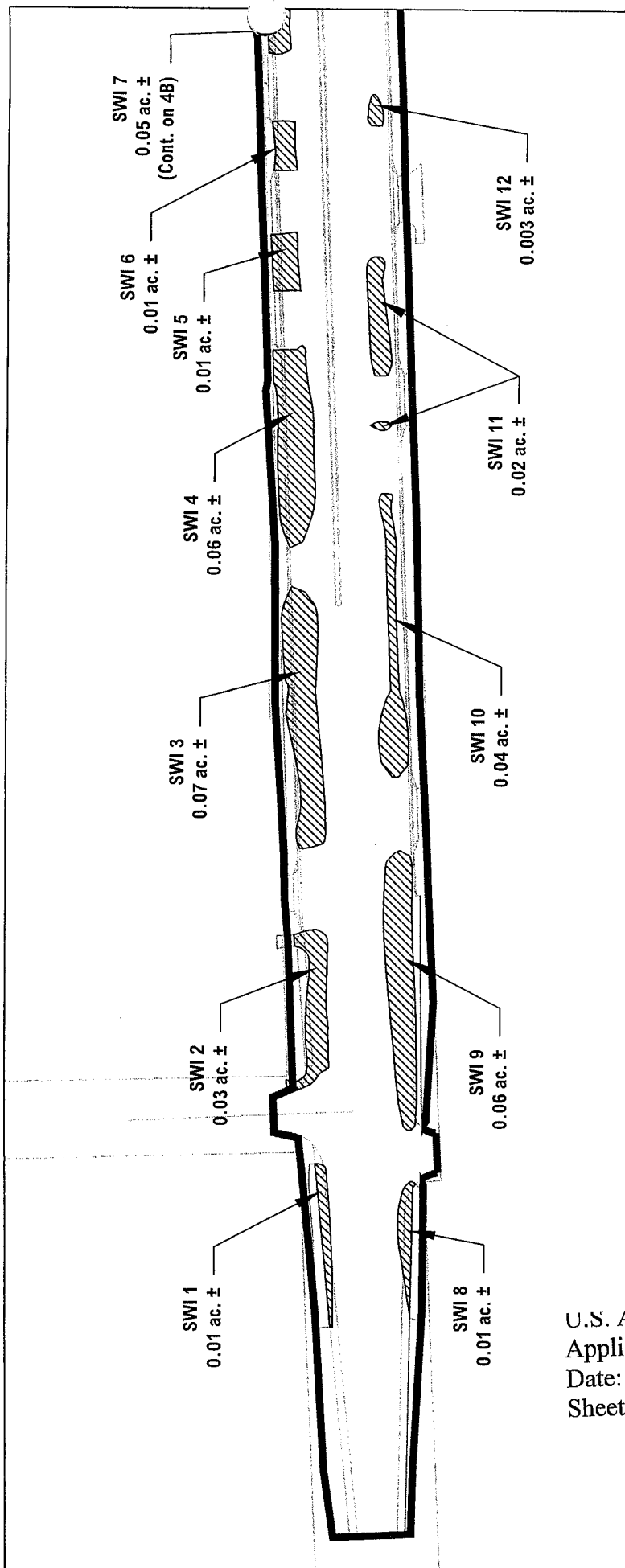
# NASA Blvd. Realignment Site Plan/Impact Key Map

U.S. Army Corps of Engineers  
Application # SAS-2003-6485  
Date: 2/2/09  
Sheet 3 of 12





Environmental  
Resource  
Solutions Inc.  
1607 The Greens Way  
Suite 200  
Jacksonville Beach, FL 32250



Legend	
	Wetland Fill Impact 0.16 ac. ±
	Wetland Dredge Impact 0.04 ac. ±
	Surface Water Fill Impact 2.51 ac. ±
	Surface Water Dredge Impact 0.59 ac. ±
	Undisturbed Wetland

Scale: 1"=100'

U.S. Army Corps of Engineers  
 Application # 545-2003-6435  
 Date: \_\_\_\_\_  
 Sheet 4 of 12



Source: dsgnrd01.dwg		Project No.: 08117
File: 08117_COE_Impact_10-21-08		Date: 1-16-03 Rev: 10-21-08
		By: KC Exhibit No: 4A

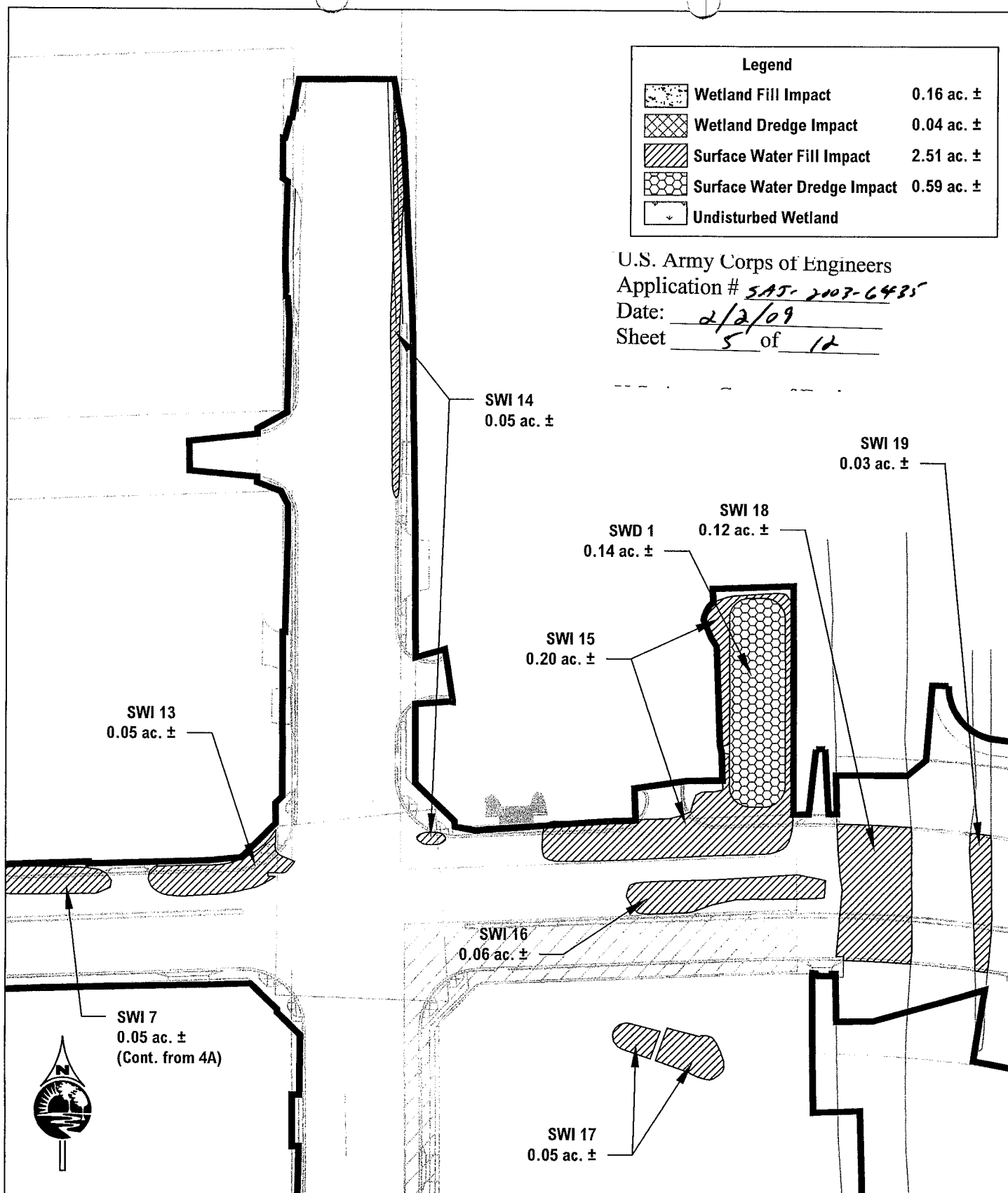
## NASA Blvd. Realignment Site Plan/Impact Map (A)

Environmental  
 Resource  
 Solutions Inc.  
 1597 The Greens Way  
 Suite 200  
 Jacksonville Beach, FL 32250



Legend		
	Wetland Fill Impact	0.16 ac. ±
	Wetland Dredge Impact	0.04 ac. ±
	Surface Water Fill Impact	2.51 ac. ±
	Surface Water Dredge Impact	0.59 ac. ±
	Undisturbed Wetland	

U.S. Army Corps of Engineers  
 Application # SAS-2003-6435  
 Date: 2/2/09  
 Sheet 5 of 12



Scale: 1"=100'



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 Solutions Inc.  
 1597 The Greens Way  
 Suite 200  
 Jacksonville Beach, FL 32250

### NASA Blvd. Realignment Site Plan/Impact Map (B)

Source: dsgnrd01.dwg File: 08117\_COE\_Impact\_10-17-08

Project No.: 08117	
Date: 1-16-03	Rev.: 10-21-08
By: KC	Exhibit No.: 4B

U.S. Army Corps of Engineers  
 Application # SAS-2003-6475  
 Date: 2/2/09  
 Sheet 6 of 12

SWI 20  
 0.06 ac. ±  
 Wetland 1, Fill Impact 1  
 0.004 ac. ±

Wetland 2, Dredge Impact 1  
 0.04 ac. ±

Legend	
	Wetland Fill Impact 0.16 ac. ±
	Wetland Dredge Impact 0.04 ac. ±
	Surface Water Fill Impact 2.51 ac. ±
	Surface Water Dredge Impact 0.59 ac. ±
	Undisturbed Wetland



Scale: 1"=100'

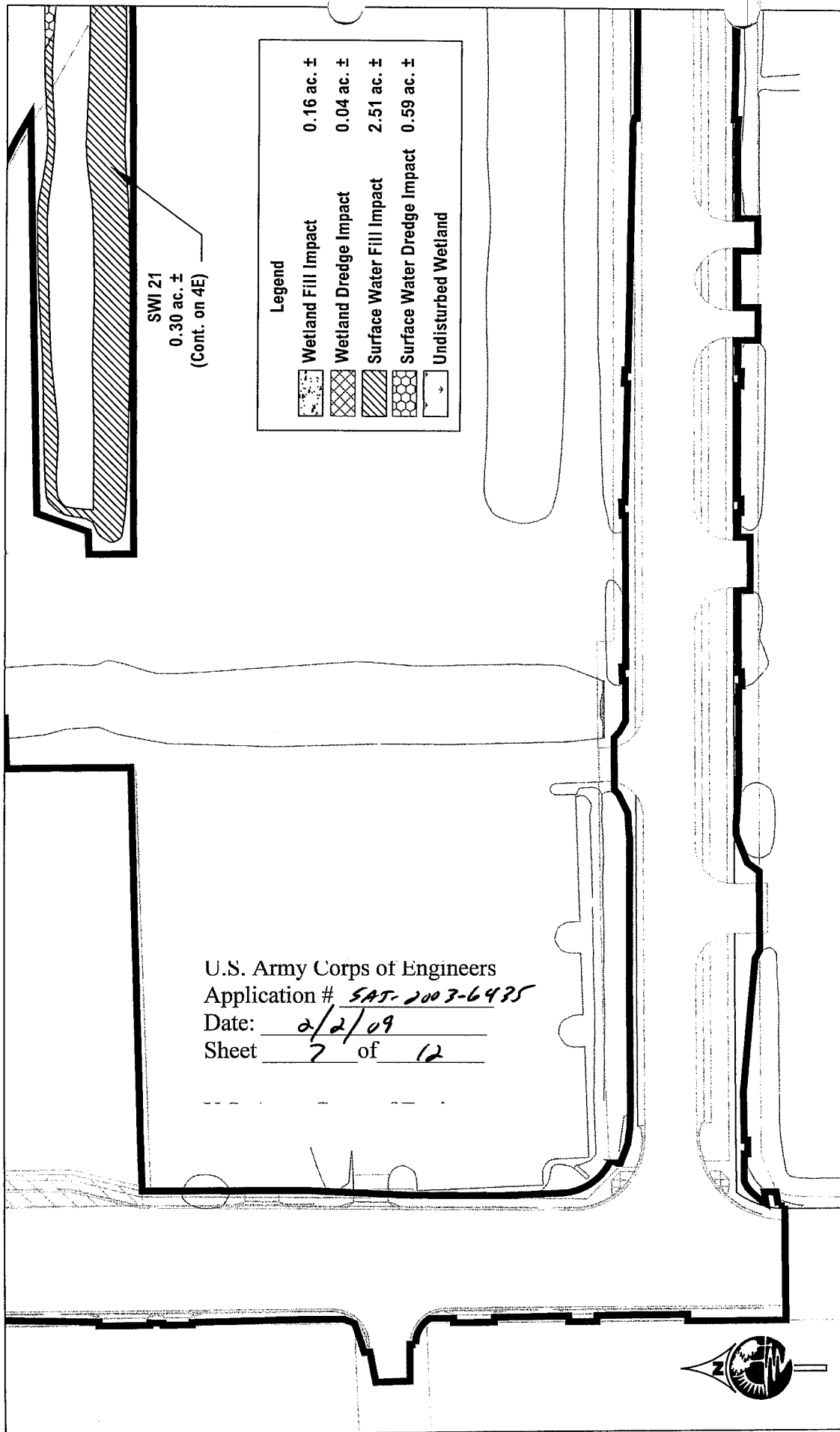
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File: 08117_C0E_Impact_10-21-08		Date: 1-16-03 Rev: 10-21-08
		By: KC Exhibit No: 4C

## NASA Blvd. Realignment Site Plan/Impact Map (C)

Environmental  
 Resource  
 Solutions Inc.  
 1567 The Greens Way  
 Suite 200  
 Jacksonville Beach, FL 32250





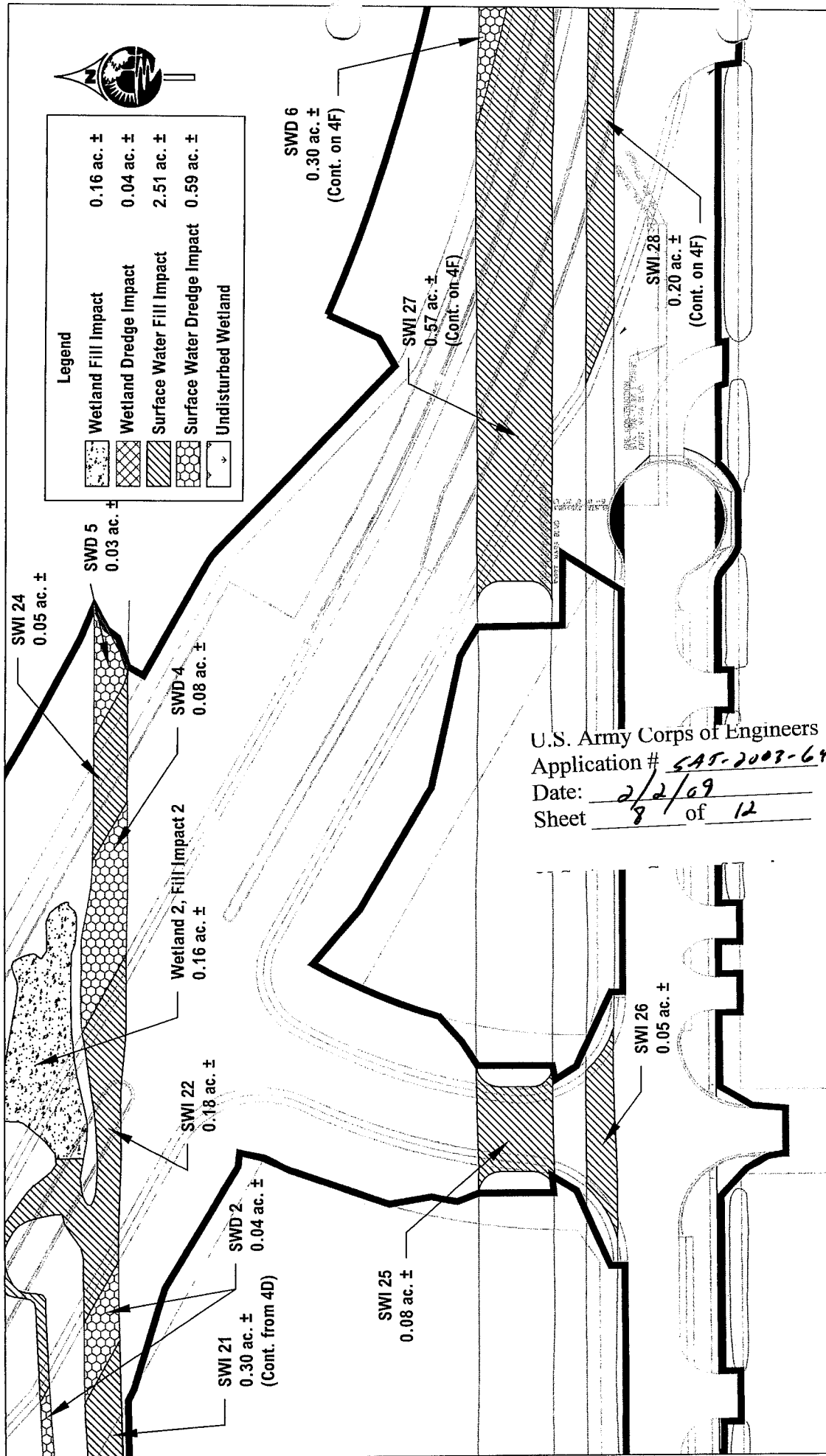


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	Date: 1-16-03	Rev: 10-21-08
	By: KC	Exhibit No: 4D

## NASA Blvd. Realignment Site Plan/Impact Map (D)



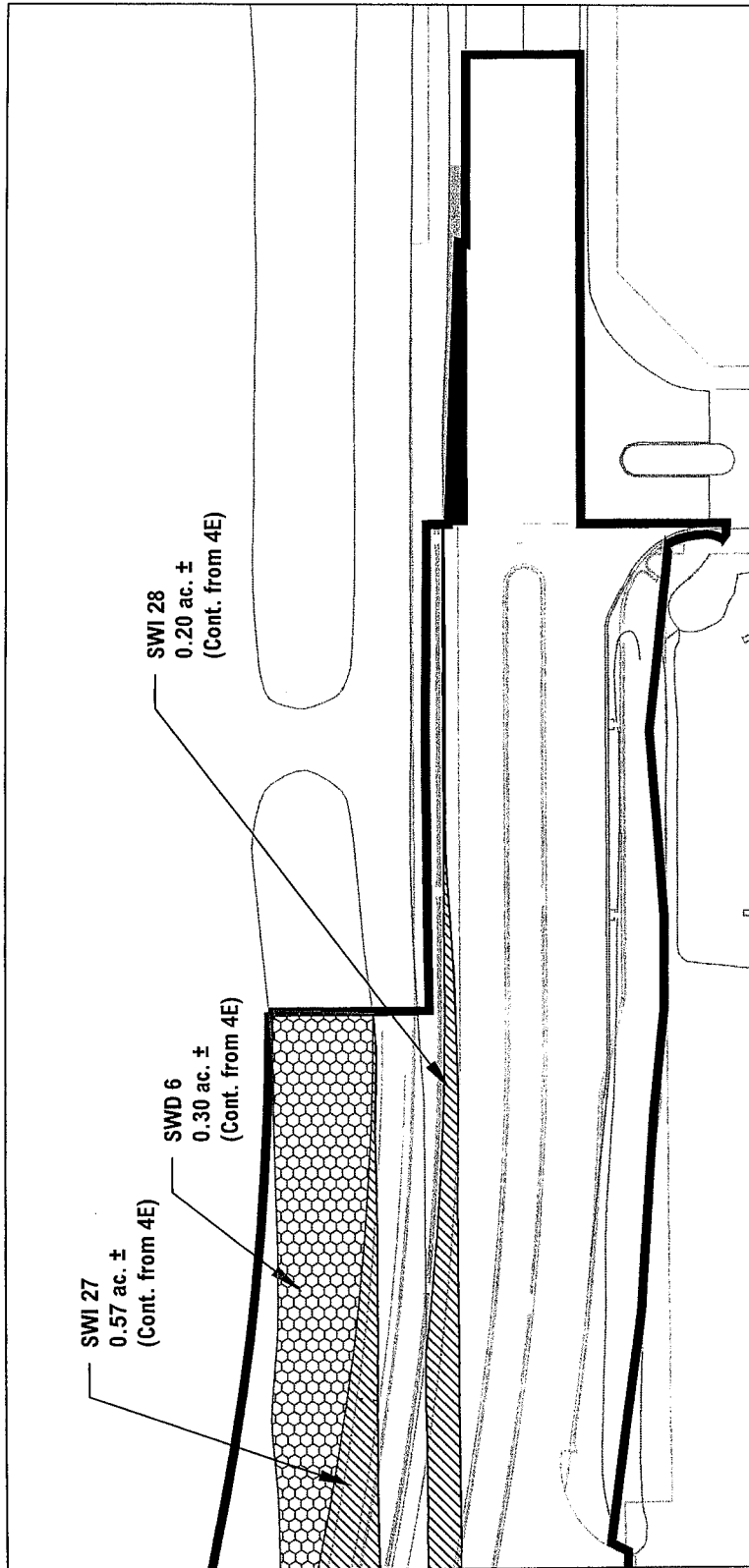


U.S. Army Corps of Engineers  
 Application # 545-2003-6435  
 Date: 2/2/09  
 Sheet 8 of 12

Scale: 1"=100'

<b>Environmental Resource Solutions Inc.</b> 1597 The Greens Way Suite 200 Jacksonville Beach, FL 32250	Source: dsgnrd01.dwg		Project No.: 08117	
	File: 08117_COE_Impact_10-21-08		Date: 1-16-03	Rev: 10-21-08
			By: KC	Exhibit No: 4E

## NASA Blvd. Realignment Site Plan/Impact Map (E)



U.S. Army Corps of Engineers  
Application # 548-2003-6435  
Date: 2/2/09  
Sheet 9 of 12

Legend	
	Wetland Fill Impact 0.16 ac. ±
	Wetland Dredge Impact 0.04 ac. ±
	Surface Water Fill Impact 2.51 ac. ±
	Surface Water Dredge Impact 0.59 ac. ±
	Undisturbed Wetland

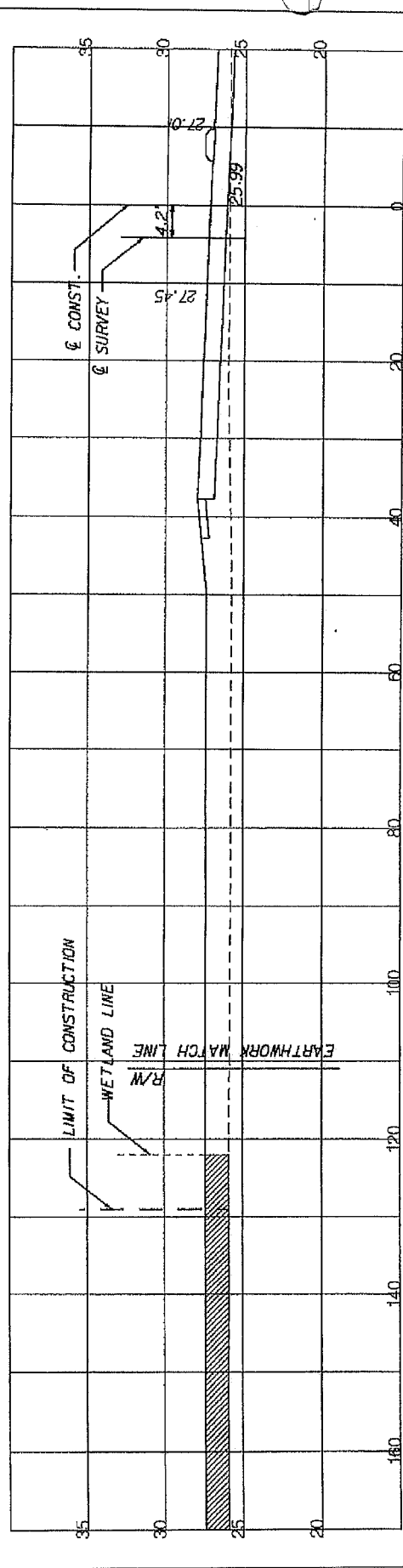
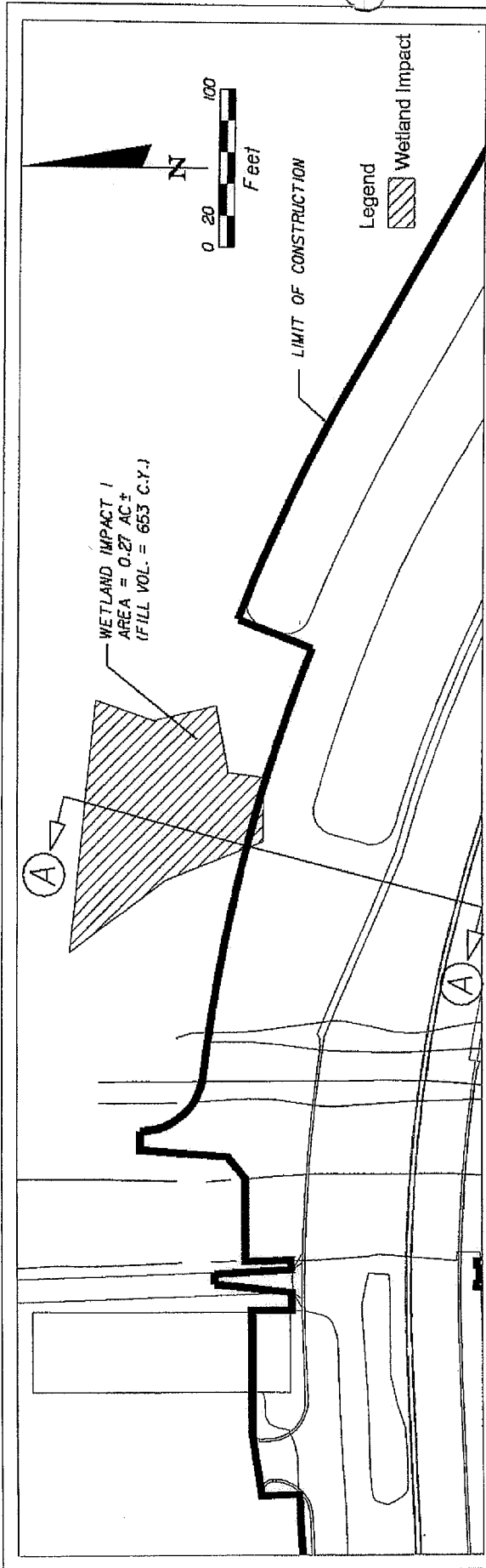
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Source: dsgrnd01.dwg File: 08117_COE_Impact_10-21-08	Project No.: 08117	
	Date: 1-16-03	Rev: 10-21-08
	By: KC	Exhibit No: 4F

## NASA Blvd. Realignment Site Plan/Impact Map (F)



Environmental  
Resource  
Solutions Inc.  
1597 The Greens Way  
Suite 200  
Jacksonville Beach, FL 32250



PURPOSE: NASA BLVD. RECONSTRUCTION IN: MELBOURNE, FLORIDA

DATUM: U.S.C. & G.S. AT: NASA

ADJACENT PR U.S. Army Corps of Engineers

1. Application # 595-2003-6435

2. Date: 2/2/09

Sheet 10 of 12

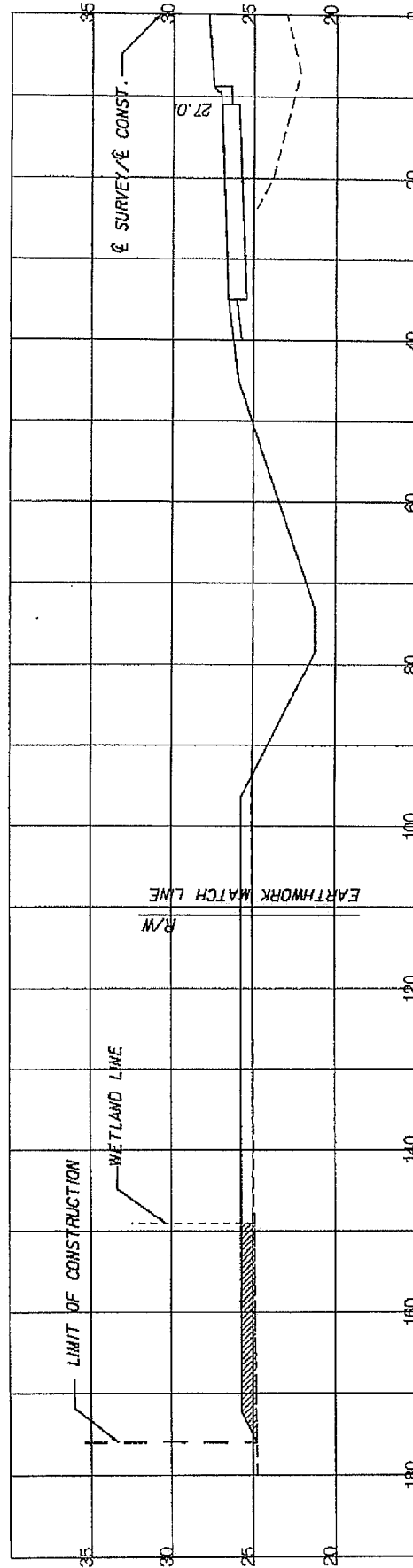
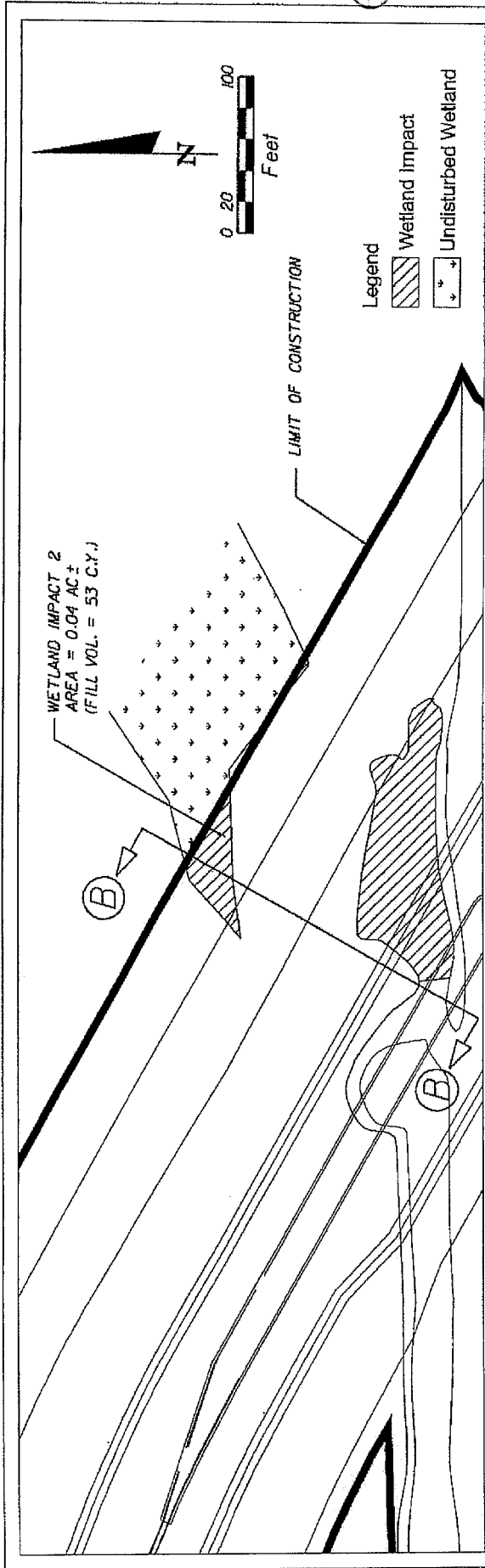
**JACOBS**<sup>TM</sup>  
Engineering Group, Inc.

CERTIFICATE OF AUTHORIZATION  
NO. 6572

**TYPICAL SECTION**

SCALE: H: 1" = 20' V: 1" = 10'

SHEET 1 OF 3



# SECTION "B-B" (IMPACT NO. 2)

PURPOSE: NASA BLVD. RECONSTRUCTION IN: MELBOURNE, FLORIDA  
 DATUM: U.S.C. & G.S. AT: NASA  
 ADJACENT PROPERTY OWNERS: COUNTY OF: BREVARD STATE: FLORIDA  
 U.S. Army Corps of Engineers APPLICATION BY: F.D.O.T.  
 Application # 545-2003-6435 NOV. 2008  
 Date: 2/2/09  
 Sheet 11 of 12

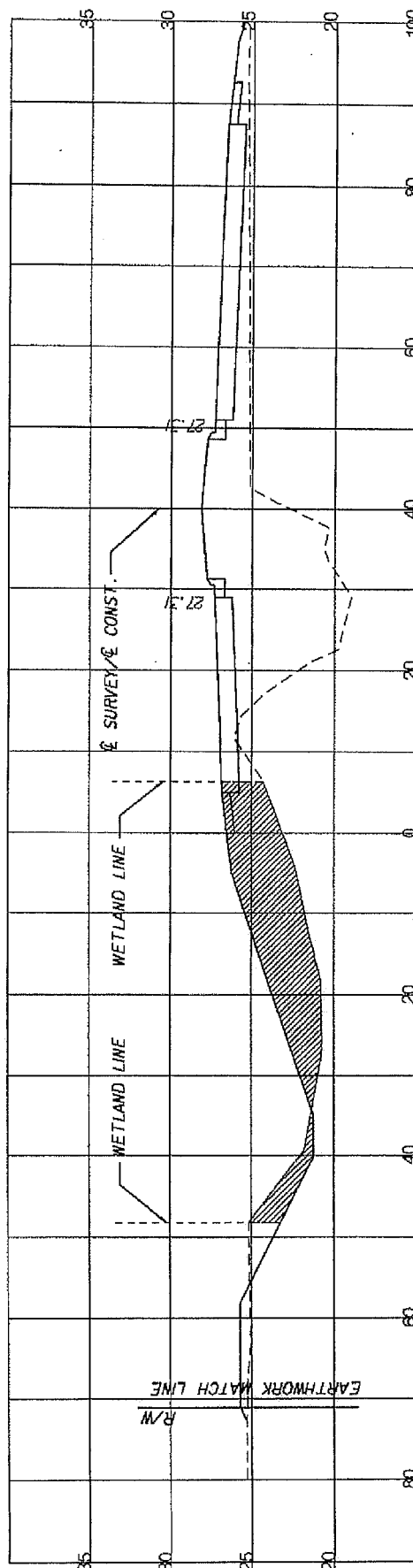
**JACOBS**  
 Engineering Group, Inc.

CERTIFICATE OF AUTHORIZATION  
 NO. 6572

TYPICAL SECTION

SCALE: H: 1" = 20' V: 1" = 10'

SHEET 2 OF 3



SECTION "C-C" (IMPACT NO. 3)

PURPOSE: NASA BLVD. RECONSTRUCTION  
 DATUM: U.S.C. & G.S.  
 U.S. Army Corps of Engineers  
 Application # 5A5-2003-6435  
 Date: 2/2/09  
 IN: MELBOURNE, FLORIDA  
 AT: NASA  
 COUNTY OF: BREVARD  
 APPLICATION BY: F.D.O.T.  
 DATE: NOV. 2008

**JACOBS**<sup>TM</sup>  
Engineering Group, Inc.

CERTIFICATE OF AUTHORIZATION  
NO. 6572

## TYPICAL SECTION

SCALE: H: 1" = 20' V: 1" = 10'  
SHEET 3 OF 3

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**  
**Post Office Box 1429**  
**Palatka, Florida 32178-1429**

**PERMIT NO.** 40-009-89425-1

**DATE ISSUED:** January 16, 2004

**PROJECT NAME:** Wickham Road at NASA Blvd. and Ellis Road

**A PERMIT AUTHORIZING:**

Construction of a Surface Water Management System with stormwater treatment by dry detention with underdrain and swales with ditch blocks for Wickham Road at NASA Blvd. and Ellis Road, a 10.54-acre project to be constructed as per plans received by the District on June 19, 2003 and revised by sheets 93, 96, 97, and 156 received by the District on November 14, 2003.

**LOCATION:**

Section(s): 25  
30

Township(s): 27S  
27S

Range(s): 36E  
37E

Brevard County

Florida Department Of Transportation  
719 South Woodland Blvd  
Deland, FL 32720

Permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to permittee any property rights nor any rights or privileges other than those specified therein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated January 16, 2004

**AUTHORIZED BY:** St. Johns River Water Management District  
Department of Resource Management

By: \_\_\_\_\_

(Service Center Director - Palm Bay)  
John Juillianna

U.S. Army Corps of Engineers  
Permit # SAS-2003-6435  
Date: FEB 02 2009  
Attachment: 2



**"EXHIBIT A"**  
**CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 40-009-89425-1**  
**FLORIDA DEPARTMENT OF TRANSPORTATION**  
**DATED JANUARY 16, 2004**

1. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.
4. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
5. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
6. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.
7. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an Annual Status Report Form No. 40C-4.900(4). These forms shall be submitted during June of each year.
8. For those systems which will be operated or maintained by an entity which will require an easement or deed restriction in order to provide that entity with the authority necessary to operate or maintain the system, such easement or deed restriction, together with any other final operation or maintenance documents as are required by subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, must be submitted to the District for approval. Documents meeting the requirements set forth in these subsections of the Applicant's Handbook will be approved. Deed restrictions, easements and other operation and maintenance documents which require recordation either with the Secretary of State or the Clerk of the Circuit Court must be so recorded prior



to lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems which are proposed to be maintained by county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local governmental entity. Failure to submit the appropriate final documents referenced in this paragraph will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

9. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by the portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to local government or other responsible entity.
10. Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed from shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:
  1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;
  2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;
  3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine state-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;
  4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;
  5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;
  6. Existing water elevation(s) and the date determined; and Elevation and location of benchmark(s) for the survey.

11. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of general condition 9 above, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District in accordance with subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, accepts responsibility for operation and maintenance of the system. The permit may not be transferred to such an approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to section 7.1 of the Applicant's Handbook: Management and Storage of Surface Waters, the permittee shall be liable for compliance with the terms of the permit.
12. Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior implementation so that a determination can be made whether a permit modification is required.
13. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and chapter 40C-4 or chapter 40C-40, F.A.C.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of section 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.
20. This permit for construction will expire five years from the date of issuance.
21. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.

22. Prior to construction, the permittee must clearly designate the limits of construction on-site. The permittee must advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
23. The construction of a Surface Water Management System must be constructed as per plans received by the District on June 19, 2003 and revised Sheets 93, 96, 97, and 156 received by the District on November 14, 2003.
24. The impervious liner must be constructed in the North Ditch as shown on Sheet 156 of the plans received by the District on November 14, 2003.
25. Mitigation to offset the impacts to wetlands and other surface waters authorized by this permit will be provided through Section 373.4137, F.S. Any construction in wetlands shall not occur prior to the approval of the mitigation plan by the District's Governing Board and final approval by the Secretary of the Florida Department of Environmental Protection.

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Submit this form and one set of as-built engineered drawings to the U.S. Army Corps of Engineers, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-2907.

1. Department of the Army Permit Number: \_\_\_\_\_

2. Permittee Information:

Name \_\_\_\_\_

Address \_\_\_\_\_

3. Project Site Identification:

Physical location/address \_\_\_\_\_

4. As-Built Certification:

I hereby certify that the authorized work has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

\_\_\_\_\_  
Signature of Engineer

\_\_\_\_\_  
Name (Please type)

\_\_\_\_\_  
Florida Reg. Number

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP

(Affix Seal)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

Deviations from the approved plans and specifications: (attach additional pages if necessary)

U.S. Army Corps of Engineers

Permit # CAJ-1003-6435

Date: FEB 02 2009

Attachment: 3



## STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE

1. An eastern indigo snake protection/education plan shall be developed by the applicant or requestor for all construction personnel to follow. The plan shall be provided to the Service for review and approval at least 30 days prior to any clearing activities. The educational materials for the plan may consist of a combination of posters, videos, pamphlets, and lectures (*e.g.*, an observer trained to identify eastern indigo snakes could use the protection/education plan to instruct construction personnel before any clearing activities occur). Informational signs should be posted throughout the construction site and along any proposed access road to contain the following information:
  - a. a description of the eastern indigo snake, its habits, and protection under Federal Law;
  - b. instructions not to injure, harm, harass or kill this species;
  - c. directions to cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site on its own before resuming clearing; and,
  - d. telephone numbers of pertinent agencies to be contacted if a dead eastern indigo snake is encountered. The dead specimen should be thoroughly soaked in water and then frozen.
2. If not currently authorized through an Incidental Take Statement in association with a Biological Opinion, only individuals who have been either authorized by a section 10(a)(1)(A) permit issued by the Service, or by the State of Florida through the Florida Fish Wildlife Conservation Commission (FWC) for such activities, are permitted to come in contact with an eastern indigo snake.
3. An eastern indigo snake monitoring report must be submitted to the appropriate Florida Field Office within 60 days of the conclusion of clearing phases. The report should be submitted whether or not eastern indigo snakes are observed. The report should contain the following information:
  - a. any sightings of eastern indigo snakes and
  - b. other obligations required by the Florida Fish and Wildlife Conservation Commission, as stipulated in the permit.

Revised February 12, 2004

U.S. Army Corps of Engineers

Permit # 5AT-2003-6435

Date: FEB 02 2009

Attachment: 4



# Statement of Findings

Number: \_\_\_\_\_



Conversion services provided by:

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**FEB 18 2009**

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and  
Statement of Findings for the Above-numbered Permit Application

1. Applicant: Florida Department of Transportation, District 5  
Attn: Patrick Muench  
719 South Woodland Blvd.  
DeLand, Florida 32720

2. Location, Project Description, Existing Conditions: The project is located near the intersection of Wickham Road and NASA Blvd., in Sections 25, 26, 30, and 31, Township 27 South, Range 36 and 37 East, Brevard County, Florida. The project as proposed will impact wetlands and surface waters which are hydrologically connected to the L-7 canal and eventually to Crane Creek.

The propose project was previously authorized by Department of the Army nationwide permit verification letter dated 14 July 2003. This verification has since expired and the applicant has not begun construction. In light of the revised guidance regarding Clean Water Act jurisdiction following the Supreme Court decision in *Rapanos v. U.S.* and *Carabell v. U.S.* the U.S. Army Corps of Engineers (Corps) has determined the on-site surface waters are jurisdictional and the project as proposed will exceed the nationwide permit impact threshold. The application will now be evaluated as an individual permit.

The applicant proposes to impact 0.19 acres of waters of the United States (wetlands) and 3.1 acres of jurisdictional surface waters for the re-alignment of NASA Blvd. at the intersection of Ellis Road and Wickham Road extending through the southwest corner of the Melbourne Regional Airport property.

The project traverses Melbourne Regional Airport property. The airport is access controlled and relatively undisturbed. The wetland systems consist of non-forested freshwater systems located within the airport property. The onsite vegetation consists of various rushes, sedges, maidencane, coinwort, and St. Johns Wart. The adjacent uplands are characterized as pine flatwoods and scrub shrub dominated by saw palmetto. Several surface water management canals and upland cut ditches are proposed for impact. A majority of the surface waters are connected to the L-7 canal and eventually Crane Creek.

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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

3. Project Purpose:

Basic: The re-alignment of an existing road.

Overall: The re-alignment of NASA Blvd. to intersect with Ellis Road along with the associated drainage improvements.

4. Scope of Analysis: The scope of analysis was limited to the project site and included endangered species, essential fisheries habitat concerns, and cultural resources.

5. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State Permit/Certification: The St. Johns River Water Management District (SJRWMD) permit number 40-009-89425-1 was issued on 19 January 2004.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida Coastal Zone Management Plan. Issuance of a SJRWMD permit certifies that the project is consistent with the CZM plan.

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

7. Date of Public Notice and Summary of Comments

a. The application was received on 24 November 2008. The application was considered complete on the same date. A public notice was issued on 25 November 2008, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

(2) U.S. Fish and Wildlife Service (FWS): Did not respond to the public notice.





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(3) National Marine Fisheries Service (NMFS): NMFS responded via letter dated 19 December 2008, stating that the use of compensatory mitigation to off-set wetland impacts is a suitable mechanism to offset lost functions and values to downstream federally managed species. Additionally, the contractor should follow Best Management Practices to reduce potential secondary impacts to wetlands.

(4) State Historic Preservation Officer (SHPO): By letter dated 9 January 2009, SHPO indicated the proposed project would have no effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.

(5) By letter dated 2 December 2008, A Shade Above Lighting, an adjacent property owner, expressed concerns that the two proposed east bound turn lanes will eliminate the ability of north bound traffic to enter their property. They have also stated that this elimination of traffic will adversely affect their business and property value.

(6) No comments were received from State or Local agencies, organizations, or any other interested party.

b. Applicant's response to the comments: A Shade Above Lighting's comments were forwarded to the applicant via letter dated 30 December 2008. The applicant responded via electronic mail dated 8 January 2009, stating the double left turn lane configuration at this location is necessary to meet the level of service requirements on Wickham Road as well as code compliances including American Association of State Highway and Transportation Officials and FDOT Plans Preparation Manual. FDOT has acquired right-of-way through an Order of Taking and the approved compensation was deposited with the County Clerk. The owners have the opportunity to claim additional compensation by claiming business damage, in progress, and suing for additional compensation for the real estate via the litigation route. The objector has been afforded their rights in this matter.

## 8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): Currently NASA Blvd. intersects with Wickham Road approximately 0.13 mile south of Ellis Road. The applicant evaluated three alternatives prior to selecting the preferred



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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

alternative. The first, "no action" alternative would not allow for project completion and would continue to require additional traffic movements to get from NASA Blvd. to Ellis Road. The second alternative was a "fly-over" structure which would bridge the airport property. This alternative is not feasible due to cost and flight safety. The third and preferred alternative will eliminate the additional traffic movement required to effectively move traffic from NASA Blvd. to Ellis Road. Further, the final alternative selected includes the optimum typical section that ensures the highest degree of safety for the public while minimizing the environmental impacts to the greatest extent possible.

b. Minimization (modified project designs, etc.): The project has been minimized to the maximum extent practicable that would allow the applicant to achieve the project purpose. FDOT design standards require minimum lane, median, and shoulder width. The alignment of the roadway would not allow for complete avoidance of wetland impacts; however, the applicant has minimized impacts to wetlands to the maximum extent practicable.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant has proposed compensatory mitigation to offset all unavoidable impacts to Corps jurisdictional wetlands. Wetland impacts will be mitigated pursuant to the Senate Bill 1986 Rule - Section 373.4137 Florida Statutes (F.S.). The Corps has completed a Wetland Rapid Assessment Procedure and determined the direct impacts would cause 1.18 functional units of loss. The Corps has calculated a secondary impact assessment extending 300 feet beyond the limits of fill with a total impact of approximately 0.87 acres. The Corps has determined the secondary impacts will cause the loss of 0.47 functional units. Total functional loss will be 1.65 units.

This project will be mitigated as defined in the SJRWMD FDOT Mitigation Plan, mitigation group SJ 51. Specifically, wetlands will be created and restored at the former Wheeler Groves parcel between Herndon Swamp and the Sotille Canal. SJRWMD is planning to recreate wetlands in the area that is currently a severely eroded ditch at a minimum of 1 acre for each acre lost.

The mitigation provided by the applicant will fully offset the impacts which would be incurred by the project as proposed.

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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

9. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts.

10. Public Interest Review:

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, shore erosion and accretion, recreation, water quality, safety, and consideration of property ownership. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: Public needs include increased travel safety, employment opportunities, and a potential temporary increase in the local tax base during construction.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use. The roadway must be configured in this alignment to meet roadway design and safety standards. The applicant has considered the comments provided by A Shade Above Lighting and determined the proposed realignment will not significantly impact their business. They have secured right-of-way through an Order of Takings and compensated A Shade Above Lighting. A Shade Above Lighting has been informed of their legal rights regarding impacts to their business.

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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: The beneficial effects for public transportation may include an increase in public safety, increased carrying capacity of the roadway and the more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce.

f. Threatened or Endangered Species: Because the project is located within the core foraging area of the endangered wood stork; the Corps has determined the proposed work "may affect, but is not like to adversely affect" the wood stork with the inclusion of wetland compensation for the loss of wetland habitat. Further, the proposed roadway will impact habitat occupied by gopher tortoise and possibly the eastern indigo snake. The Corps has determined the project "may affect, but is not like to adversely affect" the eastern indigo snake with the inclusion of the Standard Protection Measures for the Eastern Indigo Snake in any permit issued. FWS further concluded the project will have no impact to the Florida scrub jay. The FWS concurred with this determination via letter dated 17 February 2009.

Additionally, the FWS has concluded the project will have no effect on the Florida scrub jay.

g. Essential Fisheries Habitat (EFH): NMFS concluded that the use of compensatory mitigation to off-set wetland impacts is a suitable mechanism to offset lost functions and values to downstream federally managed species. The NMFS did not provide any EFH conservation recommendations in response to the public notice. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation to implement the EFH provisions of the Magnuson-Stevens Act have been met.

h. Corps Wetland Policy: The proposed wetland alteration is necessary to realize the project purpose and should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and values. Therefore the project is in accordance with the Corps wetland policy.

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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

i. Cumulative and Secondary Impacts: The applicant evaluated cumulative and secondary impacts in their Project Development and Environmental study. To reduce any adverse secondary impacts the applicant has proposed compensatory mitigation within the same drainage basin as the impacts. The applicant will follow best management practices during construction to further reduce any potential secondary impacts. Additionally, the Corps has evaluated secondary impacts to wetlands within the project corridor. Secondary impacts could occur as a result of increased traffic, noise, light, road debris, habitat fragmentation, soil disturbance, construction activities, hydrology, increased mortality, altered chemical environment, introduction of nuisance and exotic species, and vibration. The applicant has proposed additional compensatory mitigation to offset potential adverse secondary impacts.

j. Corps Comments and Responses: The Corps will implement special conditions to ensure no adverse impacts will occur to federally listed species. The applicant has secured right-of-way from A Shade Above Lighting through an Order of Taking which resulted in compensation as well as the notification of their legal rights. A Shade Above Lighting has a mechanism to secure additional compensation if it is determined the roadway widening is impacting their property. It is the Corps opinion that the applicant has carefully evaluated the roadway design and minimized impacts to the maximum extent practicable.

#### 11. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

b. Compliance with 404(b)(1) guidelines. Having completed the evaluation above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

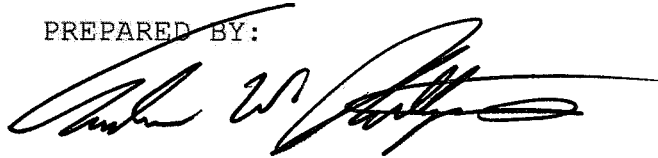
c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

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SUBJECT: Department of the Army Environmental Assessment and  
Statement of Findings on the Above-Numbered Permit Application.

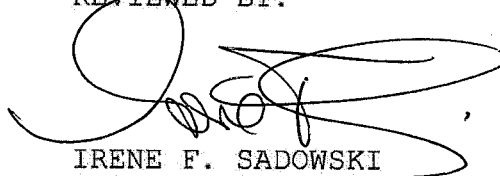
d. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *de minimis* levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

PREPARED BY:



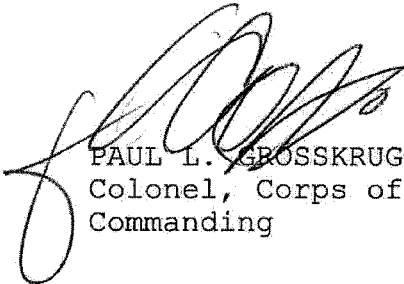
ANDREW W. PHILLIPS  
Project Manager

REVIEWED BY:



IRENE F. SADOWSKI  
Chief, Cocoa Permits  
Section

APPROVED BY:



PAUL L. GROSSKRUGER  
Colonel, Corps of Engineers  
Commanding

CF:

CESAJ-RD-PE